

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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JUSTIN ODELL LANGFORD,

Case No. 3:19-cv-00010-RCJ-WGC

**Plaintiff,**

## ORDER

v.

JAMES DZURENDA, et al.,

## Defendants.

## I. DISCUSSION

On December 23, 2019, the Court screened Plaintiff's pro se civil rights complaint and dismissed the complaint with leave to amend some of the claims in the complaint within 30 days. (ECF No. 5). When Plaintiff failed to file an amended complaint within 30 days, the Court dismissed the action with prejudice. (ECF No. 7). Upon receiving the dismissal order, Plaintiff filed a motion for reconsideration, stating that he had eight cases in the court system and mixed up the due date for this case with due dates in some of his other cases. (ECF No. 9 at 2). He states that this was an honest mistake. (*Id.*)

Federal Rule of Civil Procedure 60(b)(1) provides as follows: "On motion and just terms, the court may relieve a party or its legal representative from a final judgment, order, or proceeding for the following reasons: [ ] mistake, inadvertence, surprise, or excusable neglect." Excusable neglect may, under some circumstances, include situations in which the failure to comply with a filing deadline is attributable to negligence. *Pioneer Inv. Servs. Co. v. Brunswick Assocs. Ltd.*, 507 U.S. 380, 394, (1993). The Supreme Court has established an equitable, four-part balancing test for

1 determining whether there had been “excusable neglect.” *Id.* at 395. The *Pioneer* factors  
2 include: (1) the danger of prejudice to the non-moving party, (2) the length of delay and  
3 its potential impact on judicial proceedings, (3) the reason for the delay, including whether  
4 it was within the reasonable control of the movant, and (4) whether the moving party’s  
5 conduct was in good faith. *Id.*

6       Although the defendants had not yet been served with the complaint in this action  
7 when the Court dismissed this action, there is always an interest in the finality of  
8 judgments and the efficient administration of the courts. Furthermore, Langford’s failure  
9 to file a timely amended complaint unquestionably was in his control. However, he filed  
10 his motion soon after learning of his mistake and asserts that it was a genuine mistake.  
11 Therefore, in this one instance, the Court will accept as true Langford’s assertion that this  
12 was a genuine mistake and will reopen the case and permit him to file a signed amended  
13 complaint within 30 days of the entry of this order.

14       However, the Court emphasizes that Langford is responsible for keeping track of  
15 the deadlines in his cases regardless of how many cases he chooses to file, and he is  
16 instructed to manage his cases so that he does not miss a deadline again. If Langford  
17 misses another deadline with the Court, the Court will not be inclined to accept as true  
18 any assertion by Langford that he acted in good faith and made an honest mistake.  
19 Furthermore, especially given that Langford has had months to write an amended  
20 complaint, no further extensions of time will be granted.

21 **II. CONCLUSION**

22       For the foregoing reasons, it is ordered that Plaintiff’s motion to reopen the case  
23 (ECF No. 9) is granted and the Clerk of the Court shall reopen the case.

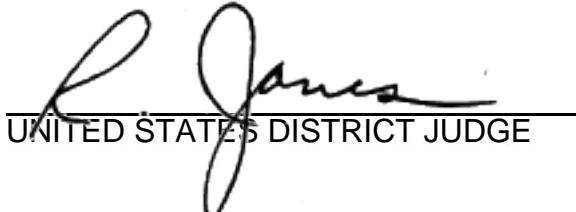
24       It is further ordered that Plaintiff may file an amended complaint curing the  
25 deficiencies in the Eighth Amendment conditions of confinement claims in his original  
26 complaint provided that he does so within 30 days of entry of this order. Plaintiff does not  
27 have leave to include in the amended complaint any unrelated claims against other

1 defendants, and an amended complaint may not include any allegations concerning  
2 events that have transpired since he filed his original complaint.

3 It is further ordered that the Clerk of the Court shall send to Plaintiff the approved  
4 form for filing a § 1983 complaint, instructions for the same, and a copy of his original  
5 complaint (ECF No. 1-1). If Plaintiff chooses to file an amended complaint, he should use  
6 the approved form and he must write the words "First Amended" above the words "Civil  
7 Rights Complaint" in the caption.

8 It is further ordered that, if Plaintiff fails to timely file a signed amended complaint,  
9 this action shall be dismissed with prejudice for failure to state a claim.

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11 DATED THIS 9<sup>th</sup> day of April, 2020.

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UNITED STATES DISTRICT JUDGE